

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS No. 10803 to 10813 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Repoter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

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VINODBHAI ISHWARBHAI PATEL

Versus

SPECIAL LAND ACQUISITION OFFICER

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Appearance:

MR VIJAY N RAVAL for Petitioner

MR MR RAVAL for Respondent No. 1, 2

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CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE M.H.KADRI

Date of decision: 25/01/99

ORAL JUDGEMENT

(Per : Panchal,J.)

Rule. Mr. M.R.Raval, learned A.G.P. waives service of notice of rule on behalf of the respondents in each petition. At the joint request of the learned

advocates appearing for the parties, all these petitions are taken-up for final hearing today.

As common questions of fact and law are involved in these petitions, we propose to dispose of them by this common judgment.

By means of filing these petitions under Article 226 of the Constitution, the petitioner in each petition has prayed to issue a writ of mandamus or any other appropriate writ or order directing the respondents to clarify as to whether references as contemplated by section 18 of the Land Acquisition Act, 1894 are made to the District Court, Panchmahals at Godhra pursuant to the applications submitted by the petitioners requiring respondent no.1 to refer the matter to District Court, Panchmahals for the purpose of determination of compensation. In the alternative, the petitioners have prayed that if it is found that the reference applications submitted by them are lost either in the office of respondent no.1 or in the office of learned District Government Pleader, the respondents be directed to reconstruct the record and make appropriate references to the Court for the purpose of determination of compensation. The petitioners were owners of agricultural lands situated at village Derol, Taluka : Kalol, District : Panchmahals. Their lands were acquired by the State Government for the purpose of construction of main canal of Narmada Yojna. An award granting compensation was made by respondent no.1 on May 15, 1989. A photostate copy of the said award is produced by each petitioner at Annexure-A to each petition. The petitioner in each case submitted application under section 18 of the Act requiring the Land Acquisition Officer to refer the matter to District Court, Panchmahals at Godhra for the purpose of determination of compensation. The said applications were duly received by respondent no.1. It is the case of the respondent no.1 that thereafter he had forwarded the record of the case together with applications to the office of learned District Government Pleader, Panchmahals at Godhra. However, the petitioners did not hear anything from respondent no.1 in the matter of compensation, nor received any notice from the Court as contemplated by the provisions of the Land Acquisition Act, 1894. The correspondence made by the petitioners did not bear any fruits. Under the circumstances, the petitioners have filed present petitions and claimed reliefs to which reference is made earlier.

Mr. M.R.Raval, learned A.G.P. has produced a

photostate copy of letter dated August 4, 1998 addressed by the learned District Government Pleader, Panchmahals at Godhra to respondent no.1. It is ordered to be taken on record of the case. From the said letter, it is evident the learned District Government Pleader has not received any papers from respondent no.1 and efforts are being made by the learned District Government Pleader to trace out the papers. However, the fact remains that no reference has been made by respondent No.1 to the Court as contemplated by section 18 of the Land Acquisition Act, 1894 and the papers are lost. The Special Land Acquisition Officer by a letter dated May 20, 1998 had informed Mr. Sunil A.Sharma, who is learned advocate for the petitioners that 12 references were made to District Court, Panchmahals at Godhra and they were disposed of by common award rendered in the year 1993. The said letter is produced by the petitioner at Annexure-G to each petition. However, Mr. M.R.Raval, learned Government Counsel is not able to produce copy of award rendered by the Reference Court, which would indicate that the 12 references which were made by respondent no.1 pursuant to the award dated May 15, 1989, have been disposed of by the Reference Court in the year 1993. Under the circumstances, we are of the opinion that alternative relief prayed for by the petitioner in each case deserves to be granted.

For the foregoing reasons, all the petitions partly succeed. The respondent no.1 is directed to reconstruct the record and make appropriate references to the District Court, Panchmahals at Godhra in pursuance of award dated May 15, 1989. After reconstruction of the record, appropriate references shall be made to the District Court as early as possible and preferably within two months from today. Rule is made absolute in each petition to the above extent only, with no order as to costs. Direct Service is permitted.

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(patel)